

Oct. 10. 2006 12:41PM WEISS, MOY, HARRIS

No. 5421 P. 2

DECLARATION UNDER 37 CFR §1.132

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Examiner Corrigan:

I, Dan Lieberman, M.D., declare as follows:

1. I am the Applicant for the patent application entitled "METHOD AND APPARATUS FOR IRRIGATION AND DRAINAGE OF THE BRAIN'S SUBDURAL SPACE USING A PERCUTANEOUS APPROACH," Ser. No. 10/646,903, filed August 22, 2003 and the inventor of the subject matter described and claimed therein.
2. I am a board certified neurosurgeon. I have been in practice since 2000. My practice includes the management of hundreds of patients with subdural hematomas, which are a routine occurrence in neurosurgical practice.
3. After a careful review of the patents cited by the examiner, and based upon all of my years of experience in the field of neurosurgery generally and subdural hematomas specifically, the medical devices cited by the examiner in the Lawrence et al., Palestrant and Boss patents cannot be used for the treat of subdural hematomas. There are several important differences between the techniques for working in subdural spaces as compared to the techniques for working in other areas in the body. The subdural space is a real anatomical structure, and my patent application describes methods to access that space without damaging the brain. The Lawrence and Palistrant patents describe tools for treating abscesses using suction and irrigation to lavage the abscess. These patents describe a forceful irrigation and strong suction technique. The pressure created by the tools these methods describe would be fatal if applied to the brain. The purpose of the Lawrence and Palistrant patents is to be able to apply force to this lavage process which would be catastrophic to the brain. In fact, there is not a single reference to "subdural" or "subdural space" in the Lawrence et al., Palestrant and Boss patents.
4. I further declare that all statements made herein are of my own knowledge and all statements made on information or belief are believed to be true; and further that these statements are

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made with the knowledge that willful and false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code and that such willful and false statements may jeopardize the validity of the above-referenced application and any patent issuing therefrom.

FURTHER DECLARANT SAYETH NOT.



Dan Lieberman, M.D.

10 | 10 | 06  
Date